|        | Case 3:10-cv-05016-RJB Doci  | ument 91   | Filed 04/11/11     | Page 1 of 5            |  |
|--------|--|------------|--------------------|------------------------|--|
| 1      |  |            | The Honorabl       | e Judge Robert J. Brya |  |
| 2      |  |            |                    |                        |  |
| 3      |  |            |                    |                        |  |
| 4      |  |            |                    |                        |  |
| 5      |  |            |                    |                        |  |
| 6<br>7 | IN THE UNITED STATES DISTRICT COURT<br>FOR THE WESTERN DISTRICT OF WASHINGTON<br>AT TACOMA |            |                    |                        |  |
| 8      | NORTHWEST HOME DESIGNING INC.,   |            |                    |                        |  |
| 9      | Plaintiff,   | Case       | e No.: 3:10-cv-050 | 016-RJB                |  |
| 10     | v.   |            |                    |                        |  |
| 11     | SOUND BUILT HOMES INC., et al.,  |            | CONSENT JUDGMENT   |                        |  |
| 12     | Defendants,  | CON        |                    |                        |  |
| 13     | v.   |            |                    |                        |  |
| 14     | REMIDCO, INC., et al.,   |            |                    |                        |  |
| 15     | Third-Party Defendants.  |            |                    |                        |  |
| 16     |  |            |                    |                        |  |
| 17     | GERRY SLICK, et al.,   |            |                    |                        |  |
| 18     | Counter-Claimants,   |            |                    |                        |  |
| 19     | v.   |            |                    |                        |  |
| 20     | NORTHWEST HOME DESIGNING INC.,   |            |                    |                        |  |
| 21     | Counter-Defendant.   |            |                    |                        |  |
| 22     | Before the Court is the Joint Motion is  | for Consen | t Judgment filed b | y Plaintiff Northwest  |  |
| 23     | Home Designing Inc ("NHD") and Defenda   | ants Sound | Ruilt Homes Inc    | Sunridge Homes Inc     |  |

Home Designing, Inc. ("NHD") and Defendants Sound Built Homes, Inc, Sunridge Homes, Inc. 24

CONSENT JUDGMENT Case No.: 3:10-cv-05016-RJB FOSTER PEPPER PLLC
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Pursuant to Rule 58 of the Federal Rules of Civil Procedure and the agreement of the parties, the Court enters judgment for NHD and against the Sound Built Defendants as follows: FINDINGS OF FACT

Soundbuilt Northwest, LLC, and Gary J. Racca (collectively, "the Sound Built Defendants").

- 1. Plaintiff NHD is a Washington corporation with its principal place of business in Lakewood, Washington.
- 2. Defendant Soundbuilt Northwest, LLC is a limited liability company organized under the laws of Washington and is based in Puyallup, Washington. Defendants Sound Built Homes, Inc., doing business as Soundbuilt Homes, and Sunridge Homes, Inc., were corporations that were merged with Soundbuilt Northwest, LLC in the manner required by law, in December, 2008. Defendant Racca is a resident of this district, is named in this action in his individual capacity, and the action concerns his separate property. These defendants are referred to herein as the "Sound Built Defendants," and they engage in the homebuilding business.
- 3. In or about 1984, NHD created an original home plan identified as the G-262 plan. NHD owns Copyright Registration No. VA 420-485 for the G-262 plan, which is valid and subsisting.
- 4. In or about 1996, NHD created an original home plan identified as the I-161 plan. NHD owns Copyright Registration No. VA 1-685-525 for the I-161 plan design, which is valid and subsisting.
- 5. The Sound Built Defendants copied and created derivatives of the G-262 plan designated as the 1669 plan and used the 1669 plans to construct homes, all without the permission or consent of NHD.

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- 6. The Sound Built Defendants also copied the I-161 and used the copies to construct homes, all without the permission or consent of NHD.
- 7. The NHD and the Sound Built Defendants have entered into a settlement agreement, pursuant to which the Sound Built Defendants agree to the entry of this judgment and injunctive relief, and also agree to make certain payment to NHD.

## **CONCLUSIONS OF LAW AND ORDER**

- 8. NHD owns the copyrights in the G-262 plan and the I-161 plan. The copyrights in these plans are valid, enforceable, and registered. The Court has subject matter jurisdiction over this action.
- 9. The Sound Built Defendants infringed NHD's copyrights in the G-262 plan and in the I-161 plan.
- 10. NHD suffered damages attributable to the infringement of its copyright by the Sound Built Defendants in the form of lost profits. Additionally, the Sound Built Defendants realized profits on the sale of homes based on the unauthorized plans.
- 11. It is therefore ORDERED that the Sound Built Defendants pay NHD the sum set forth in the Settlement Agreement between the parties.
- 12. The Sound Built Defendants are hereby PERMANENTLY ENJOINED from further copying, distributing, making derivatives therefrom or otherwise using NHD's copyrighted plans absent the express permission of NHD or as permitted by the terms of the parties' settlement agreement. The Sound Built Defendants may complete any homes currently under construction or permitted as of the date of this Order, which completion or construction shall not constitute a violation of this Order.

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- 13. As between NHD and the Sound Built Defendants, the parties shall bear their own cost and fees associated with this litigation, without compromise of the Sound Built Defendants' obligations under the Settlement Agreement with NHD.
  - 14. The Court retains jurisdiction to enforce this Order and the Settlement Agreement.
- 15. The clerk shall enter judgment in favor of Plaintiff and against the Sound Built Defendants consistent with the terms of this order.
- 16. The claims of both NHD and the Sound Built Defendants against the remaining parties to this action continue without compromise or abatement.

The Court, having considered the same and being otherwise fully advised, hereby orders that the Joint Motion for Entry of Consent Judgment is **GRANTED**.

DONE IN OPEN COURT this 11th day of April, 2011.

ROBERT J. BRYAN

United States District Judge

| 1  | PRESENTED BY:   |   |
|----|---|---|
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